



**Telecommunications**  
*Advocacy Project*

WRITTEN STATEMENT OF KHALIL MUNIR  
EXECUTIVE ~~DIRECTOR~~ OF THE TELECOMMUNICATIONS ADVOCACY PROJECT  
BEFORE THE FEDERAL COMMUNICATIONS COMMISSION'S  
PUBLIC FORUM  
ON  
AT&T/MEDIAONE PROPOSED MERGER (CS DOCKET NO. 99-251)

FEBRUARY 4, 2000

Good afternoon Chairman Kennard and representatives from the FCC. My name is Khalil Munir, and I am the Executive Director of the Telecommunications Advocacy Project ("TAP"). I am accompanied by Thomas Hart, TAP's legal counsel and partner in the law firm of Shook, Hardy and Bacon.

TAP is a nonprofit organization created to increase small business participation in emerging opportunities within the telecommunications industry through (1) advocacy directed at federal, state and local legislatures; (2) educating organizations and individuals about how to become effective advocates; (3) facilitating coalitions among nonprofit, grassroots organizations that are interested in participating in new technological opportunities; (4) identifying emerging opportunities in the telecommunications industry, as well as sources of capital for start-up businesses; and (5) promoting entrepreneurship within historically disadvantaged communities. TAP identifies emerging industry trends and provides technical assistance and advocacy training for disadvantaged groups. Its goal is to increase the level of access and service provided by telecommunications companies in rural and

urban areas throughout the country. Our raison d'être is to promote sound public policy regarding telecommunications industry issues.

TAP is a party to this proceeding, filing a Petition to Deny the proposed AT&T/MediaOne merger on August 23, 1999, and filing a supplement to its Petition to Deny on September 15, 1999. In its Petition to Deny, TAP raised a number of claims that address why the proposed merger should be denied. However, TAP's primary focus today concerns our allegations concerning MediaOne's pattern and practice of unequal deployment of broadband services in low-income and minority communities nationwide, a practice that we have typified as "redlining" or discriminatory deployment.

I appear today to explain our opposition to the merger and to provide clarification about the context and content of our allegations pertaining to redlining. Our allegations are indeed serious and incendiary and it is incumbent upon me to provide foundation for those allegations.

TAP believes that discriminatory deployment of basic and advanced telecommunications services (or "redlining"), in this case, broadband cable service, is a violation of Sections 202(a) and 254 of the Communications Act. The Act specifically prohibits discrimination in the charges, practices, classifications, regulations, facilities or services by common carriers, and mandates that consumers in all regions of the nation, including low-income and rural areas, have access to telecommunications and information services that are reasonably comparable to those services provided in urban or low-cost areas.

TAP regularly analyzes how underserved communities, and in particular, minority communities, are routinely disserved by telecommunications corporate titans, some of whom ultimately merge. In my travels around the country and to many diverse neighborhoods, I have been amazed by industry executive statements that tout the benefits of broadband services. Many of them are banking their hopes and careers on new customer subscribers to the new services. The reality is that a "digital divide" has emerged for individuals and communities of color and especially those persons who languish on the lower end of the socioeconomic ladder or reside in rural areas. For example, if you live in a blighted neighborhood or a rural or remote part of the country, you may want advanced technology, but may be unable to obtain it for any number of reasons, such as, prohibitive cost, dearth of ISP's, or lack of competition. Ironically, and surprisingly, minorities are the cable industry's most loyal customers and subscribers when presented with access on an equal basis.

In our petition, we allege redlining has occurred in communities served by MediaOne. Based on available data and research, and conversations with individuals and organizations, we have concluded that a disturbing pattern has emerged.

TAP is conducting case studies throughout the country to document its allegations of redlining by MediaOne. Today, TAP would like to focus the Commission's attention on the recent proceedings in Richmond, Virginia, an area highlighted in TAP's Supplement. TAP's initial field investigation, research and evaluation in the City of Richmond revealed that MediaOne deployed broadband cable services in a discriminatory manner. Armed with this information, TAP appeared before the Richmond City Council during a hearing on the City's consent to the proposed Transfer of Control of MediaOne by AT&T in November of 1999. TAP testified regarding MediaOne's

alleged discriminatory actions and the effect that those actions have had on low-income, and minority residents of Richmond.

I went to the jurisdiction of Richmond on numerous occasions to engage city council members and to brief them on the importance of understanding and adhering to the fundamental foundation of the Telecom Act of 1996 as they considered granting transfer of franchise authority from MediaOne to AT&T. I am very familiar with the Act. I worked on the legislation for Congressman Ed Towns, a member of the Commerce Committee and had three amendments included in the final bill that became public law. I encouraged them to stipulate in their ordinance language that the deployment of advanced technology by MediaOne should occur in a nondiscriminatory manner. The council voted to approve the transfer, but included the language in their ordinance.

During the course of my visits and conversations with elected officials and ISP's, and subscribers, a few things became very clear. The longstanding and mutually beneficial business relationship MediaOne shared with Richmond would continue under the banner of AT&T. However, I was not confident that subscribers were likely to experience an equally beneficial relationship that would be reflected in equal access to technology and quality of service.

I contended that disparities in the deployment of advanced technology and the quality of services provided after the transfer would be affected by a number of factors. The factors include where people live, and the belief that a company can recoup its investment quicker by serving more affluent and better educated customers. My message resonated with members of the city council in Richmond, to the degree that in their collective wisdom they voted to protect the interests of their citizens by requiring MediaOne to guarantee that they would not discriminate in their deployment schedule.

Although the Richmond city council ultimately approved the transfer of control, it took legislative action based in part, on TAP's presentation and conditioned its approval upon several items. These included "[t]hat [MediaOne] and AT&T agree that access to the Internet, Internet services, and/or on-line services by means of the [MediaOne's] Cable System, including timetables for construction, marketing and implementation will be made available to subscribers in a manner that does not discriminate among geographic areas of the city based or on the income of potential subscribers in such areas. *City of Richmond, Ordinance No. 99-368, adopted November 1999.*

TAP believes that consistent with the Telecom Act of 1996, protections against redlining and discrimination must be enforced. In the case of this pending merger, it is crucial for the Commission to examine the question of whether, and how will the public interest be served. This is particularly important as we prepare to observe the four-year anniversary of the passage of the Act.

Our examination in other jurisdictions revealed that there were community and consumer concerns about the corporate philosophy and quality of service provided by MediaOne. In some such as Los Angeles, they have endeavored to ensure no disparate treatment of consumers. Admittedly, when any company is accused of a repugnant and illegal practice they will respond with righteous indignation. MediaOne claims our allegations are baseless. However, elected officials of Richmond, Virginia recognized the merit of our argument. I do not believe MediaOne is guilty of venal intent to deprive minority consumers of advanced technological applications. However, our review of maps and other data reflecting demographics of deployment for broadband in the Richmond area and surrounding suburbs gave us cause for pause.

My review of deployment maps and demographic data provided by MediaOne has given me cause to consider the efficacy of claims by MediaOne that their deployment schedule is color-blind. This is a critical point when one considers that in some jurisdictions there may be more than one provider servicing customers in very close geographic proximity to its competitor/s. It is clear to me that in instances where more than one cable company services households in a jurisdiction, it is difficult to ascertain where areas of service and coverage converge or diverge. However, due to the proprietary nature of much of the evidence, and TAP's inability to cross-examine MediaOne in a formal hearing process, TAP has been restrained in submitting further evidence to the FCC.

Therefore, TAP recommends that the FCC conduct its own field investigations and hearings of MediaOne's deployment patterns in other jurisdictions where it provides service in areas with high concentrations of ethnic, rural and urban subscribers. Designation of this matter for a hearing would give TAP the opportunity to fully discover MediaOne's deployment tactics and practices, and would give the Commission the opportunity to fully investigate the allegations in our Petition to Deny. Should the Commission findings confirm our allegations, then the Commission must deny the merger on the grounds that it would not be in the public interest. At a minimum, the FCC should impose forfeitures and conditions upon any consent to the merger to protect the interests of low-income, rural and minority consumers. Thank you.

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